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HOUSE BILL 2269

By Zachary

AN ACT to amend Tennessee Code Annotated, Title 56, Chapter 61, relative to requiring expedited review of cases involving cancer patients.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 56-61-102(32)(B), is amended by adding the following language as a new subdivision:

(iii) Any request relating to a covered person's diagnosis of cancer shall be treated as an urgent care request.

SECTION 2. Tennessee Code Annotated, Section 56-61-109(f), is amended by adding the following as a new subdivision:

If, with respect to any request relating to a diagnosis of cancer, the covered person does not receive the notification of the decision by the health carrier within seventy-two (72) hours after the receipt of the request for the expedited review, the recommended healthcare services or treatment is deemed to be approved and the health carrier's decision is reversed.

SECTION 3. Tennessee Code Annotated, Section 56-61-113(b)(1)(A), is amended by deleting the subdivision and substituting instead the following:

(A) If the covered person has a medical condition where the timeframe for completion of an expedited review of a grievance involving an adverse determination set forth in § 56-61-109 would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function, or the covered person has a cancer diagnosis, the aggrieved person may file a request for an expedited external review to be conducted pursuant to § 56-61-117;

SECTION 4. Tennessee Code Annotated, Section 56-61-113(b)(2)(A), is amended by deleting the subdivision and substituting instead the following:

(A) If the covered person has a medical condition where the timeframe for completion of a standard external review pursuant to § 56-61-116 or § 56-61-118 would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function, or the covered person has a cancer diagnosis, the aggrieved person may file a request for an expedited external review pursuant to § 56-61-117 or § 56-61-118(n);

SECTION 5. Tennessee Code Annotated, Section 56-61-115(b), is amended by deleting the subsection and substituting instead the following:

(b) A request for an external review of an adverse determination may be filed before the covered person has exhausted the health carrier's internal grievance procedures, as set forth in § 56-61-107, whenever the health carrier agrees to waive the exhaustion requirement or the covered person has received a cancer diagnosis.

SECTION 6. Tennessee Code Annotated, Section 56-61-117(a)(1)(A), is amended by deleting the subdivision and substituting instead the following:

(A) The adverse determination involves a medical condition of the covered person for which the timeframe for completion of an expedited internal review of a grievance involving an adverse determination set forth in § 56-61-109 would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function, or the covered person has received a cancer diagnosis; and

SECTION 7. Tennessee Code Annotated, Section 56-61-117(a)(2)(A), is amended by deleting the subdivision and substituting instead the following:

(A) If the covered person has a medical condition where the timeframe for completion of a standard external review pursuant to § 56-61-116 would seriously jeopardize the life or health of the covered person or would jeopardize the covered

person's ability to regain maximum function, or the covered person has received a cancer diagnosis; or

SECTION 8. Tennessee Code Annotated, Section 56-61-117(f)(1), is amended by adding the following as a new subdivision:

(C) If, with respect to any request relating to a diagnosis of cancer, the aggrieved person does not receive the notification of the decision of the expedited external review within seventy-two (72) hours after the receipt of the request for the expedited external review, the recommended healthcare services or treatment is deemed to be approved and the health carrier's decision is reversed.

SECTION 9. Tennessee Code Annotated, Section 56-61-118(n), is amended by deleting the subsection and substituting instead the following:

(n)

(1) Within six (6) months after the date of a notice of an adverse determination that involves a denial of coverage based upon the determination that the healthcare service or treatment recommended or requested is experimental or investigational, an aggrieved person may file a request for an expedited external review of the adverse determination. The covered person's treating physician must certify, in writing, that the recommended or requested healthcare service or treatment that is the subject of the request would be significantly less effective if not promptly initiated, or the covered person has a cancer diagnosis.

(2)

(A) Upon notice of the request for expedited external review, the health carrier shall immediately determine whether the request meets the

reviewability requirements of subsection (b). The health carrier shall immediately notify the aggrieved person of its eligibility determination.

(B) With respect to any request relating to a diagnosis of cancer, the health carrier shall notify the aggrieved person within seventy-two (72) hours after the health carrier receives the notice of the request for expedited external review.

(C) If, with respect to any request relating to a diagnosis of cancer, the covered person does not receive the notification of its eligibility for expedited external review within seventy-two (72) hours after the receipt of the request for the expedited external review by the carrier, the recommended healthcare services or treatment is deemed to be approved and the health carrier's decision is reversed.

(3) The notice of initial determination shall include a statement informing the aggrieved person that a health carrier's initial determination that the request for external review is ineligible for review and may be appealed to the commissioner; provided, that:

(A) The commissioner may determine that a request is eligible for external review notwithstanding a health carrier's initial determination that the request is ineligible and that it be referred to external review; and

(B) In making a determination under subdivision (n)(3)(A), the commissioner's decision must be made in accordance with the terms of the covered person's health benefit plan and must be subject to all applicable provisions of this chapter.

(4)

(A) Except as provided in subdivision (n)(4)(B), upon making a determination that a request is eligible for expedited external review, the health carrier shall immediately notify the aggrieved person in writing that the request is eligible for external review.

(B) With respect to any request relating to a diagnosis of cancer, the health carrier shall notify the aggrieved person within seventy-two (72) hours after the health carrier receives the notice of the request for expedited external review.

(5) If, with respect to any request relating to a diagnosis of cancer, the aggrieved person does not receive the notification of the decision by the health carrier for the expedited review within seventy-two (72) hours after the receipt of the request for the expedited review by the carrier, the coverage of the recommended or requested healthcare services or treatment is deemed to be approved and the health carrier's adverse determination is reversed.

(6) At the same time, the health carrier shall immediately notify the external review organization and provide or transmit all necessary documents and information considered when making the adverse determination or final adverse determination electronically or by telephone, facsimile, or any other expeditious method available.

(7) Within one (1) business day after the receipt of the notice to conduct an expedited external review, the external review organization shall:

(A) Select one (1) or more clinical reviewers, as it deems appropriate to conduct the expedited external review;

(B) Based on the decision of the clinical reviewer or reviewers, render a decision to uphold or reverse the decision of the adverse determination;

(C) Require each clinical reviewer to provide an opinion, orally or in writing, to the external review organization as expeditiously as the covered person's medical condition or circumstances require, but in no event more than five (5) days after being selected; and

(D) If the opinion is not in writing, within forty-eight (48) hours following the date that the opinion was provided, require the clinical reviewer to provide written confirmation of the opinion to the external review organization and include the information required in subsections (k) and (l).

(8) Upon receipt of a notice of a decision reversing the adverse determination, the health carrier shall immediately approve the coverage of the recommended or requested healthcare service or treatment that was the subject of the adverse determination.

SECTION 10. This act shall take effect July 1, 2018, the public welfare requiring it, and shall apply to actions commenced on or after that date.